

In The Matter Of:
Griffin vs. City of Atlanta

Deposition Of:
30(b)(6) Arthur Nixon

Taken On:
9/22/2020

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT COUNTY
ATLANTA DIVISION

TYLER GRIFFIN,

Plaintiff,

v.

CIVIL ACTION FILE
NO. 1:20-cv-02514-TWT

CITY OF ATLANTA, DONALD
VICKERS, MATTHEW ABAD, AND
JOHN DOE #1-5,

Defendants.

DEPOSITION CONDUCTED VIA VIDEO CONFERENCE

VIDEOTAPED 30(b)(6) DEPOSITION OF CITY OF ATLANTA
ARTHUR NIXON

September 22, 2020
2:01 p.m.

Witness located in Atlanta, Georgia

By Jennifer Davis-McLain, RMR, CRR, CRC
Certified Court Reporter, License No. 2496

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21 (Pursuant to Article 10(B) of the Rules and
22 Regulations of the Georgia Board of Court Reporting, a
written disclosure statement was submitted by the
23 court reporter to all counsel present at the
proceeding.)

24

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1 P R O C E E D I N G S

2 MR. KAHN: So this will be the Rule 30(b)(6)
3 deposition of the City of Atlanta taken pursuant to
4 notice and agreement. The deposition is taken in the
5 case Tyler Griffin versus the City of Atlanta. The
6 deposition will be taken pursuant to the Federal Rules
7 of Civil Procedure and for all purposes permitted
8 under those rules, including use at trial. And the
9 deposition is being taken on Zoom because of the COVID
10 pandemic.

11 Could we go ahead and swear in the witness.

12 COURT REPORTER: Yes, sir. Before we get
13 started, I will ask counsel to please identify
14 yourself and state on the record that you have no
15 objection to this officer of the court administering a
16 binding oath to this witness via Zoom. If we could
17 please begin with the noticing attorney.

18 MR. KAHN: Sure. Matt Kahn for the
19 plaintiff, and no objection.

20 MR. BUTLER: Jeb Butler for the plaintiff.

21 MS. NAIR: Alisha Marie Nair for the City of
22 Atlanta. No objection.

23 MS. MILLER: Staci Miller for the
24 defendants, and no objection.

25 MS. PARKS: Jacquita Parks for the

1 defendants. No objections.

2 COURT REPORTER: Thank you.

3 ARTHUR NIXON,
4 having been first duly sworn, was examined and
5 testified as follows:

6 EXAMINATION

7 BY MR. KAHN:

8 Q. All right. Mr. Nixon, will you please state
9 your full name and job title.

10 A. Yes. My name is Arthur Nixon. I'm a police
11 investigator with the City of Atlanta Police
12 Department.

13 Q. And how long have you been with APD?

14 A. Twenty-two and a half years.

15 Q. And how long have you been an investigator?

16 A. Since 2006.

17 Q. And are you with the internal affairs part
18 of OPS?

19 A. Yes, sir.

20 Q. Do you investigate police misconduct?

21 A. Yes, sir.

22 Q. And do you investigate allegations of
23 excessive force by APD officers?

24 A. Yes, sir, I do.

25 Q. Have you ever investigated allegations of

1 excessive force and found that the use of force was
2 unreasonable?

3 **A. Yes.**

4 Q. And can you give an example?

5 MS. NAIR: Objection. Mr. -- Investigator
6 Nixon is here to testify as to Topics 1 and 11. This
7 goes outside of the scope of those.

8 MR. KAHN: Okay. And just for the record,
9 you know, he has been designated for those topics, but
10 we are free to ask him questions within his personal
11 knowledge.

12 BY MR. KAHN:

13 Q. So, Mr. Nixon, if you can answer.

14 **A. Yes. There was an instance where an officer**
15 **was called to a restaurant for -- it was a criminal**
16 **trespass issue. But while talking to the suspect, it**
17 **turned into a physical -- very brutal physical**
18 **altercation that wasn't called for. As a result, that**
19 **officer is no longer with the department.**

20 Q. Okay. And what was that officer's name?

21 **A. Lancerot.**

22 Q. Do you recall when that happened?

23 **A. Maybe about a year and a half ago.**

24 Q. Did you start with APD as a recruit?

25 **A. Yes, I did.**

1 Q. And do you have any law enforcement
2 experience predating your time with APD?

3 A. I was a military police officer in the
4 military, and I was a Georgia Corrections officer
5 prior to APD.

6 Q. Okay. When did you first start working in
7 law enforcement?

8 A. If you want to use the Georgia Corrections,
9 that would be in April of 1997. I was a correction
10 officer. And I got hired with APD in December of '97.
11 And prior to both of those, I was in the military.

12 Q. And what branch of the military?

13 A. Air Force.

14 Q. Air Force. Thank you for your service.

15 A. Thank you.

16 Q. What sort of police training do you have?

17 A. With APD, it's the -- it's, I guess, a very
18 broad question, but arrest procedures, criminal
19 procedure. Just everything that entails being a
20 police officer.

21 Q. Okay. Have you undergone use-of-force
22 training?

23 A. Yes, sir.

24 Q. And have you taught or instructed other
25 police officers on use of force?

1 **A. No, sir.**

2 Q. Have you taught or instructed other police
3 officers on any subject?

4 **A. No, sir. No. That requires an instructor**
5 **certification, and that's -- I don't have that.**

6 Q. Okay. Would it be fair to say that as an
7 OPS investigator, you have the ability to apply APD
8 standard operating procedures to real-world scenarios?

9 **A. Yes. As the investigation goes on, yes.**
10 **Yes, sir.**

11 Q. And as an OPS investigator, isn't it true
12 that you have to be able to apply the standard
13 operating procedures to real-world scenarios?

14 **A. To see if there's a violation?**

15 Q. Yes, sir.

16 **A. Yes, sir.**

17 Q. Have you ever reported another officer for
18 the use of excessive force?

19 **A. It has come -- since I've been here in the**
20 **unit, I believe so. Because sometimes we'll see**
21 **situations come up as a result -- some serious**
22 **situations that will come up as a result of the**
23 **investigation.**

24 Q. And can you share an example of one of the
25 times that you've reported another officer?

1 **A. We had a situation where -- I didn't**
2 **necessarily report it. We were looking at video, and**
3 **the use of the N-word came out during -- while we were**
4 **investigating one situation, use of the N-word came**
5 **out while we were looking at the video.**

6 Q. And so I guess have you ever reported
7 another officer for excessive force versus abusive
8 language or inappropriate language?

9 **A. Not that I can recall, no, sir.**

10 Q. Okay. Have you ever testified in an
11 official proceeding that another officer used
12 unnecessary force?

13 **A. No, sir.**

14 Q. In your career as a police officer, have you
15 ever seen another officer use what you consider to be
16 excessive force in the field?

17 MS. NAIR: Objection. Beyond the scope.

18 BY MR. KAHN:

19 Q. You can answer.

20 **A. No, sir. Not that I can recall, no, sir.**

21 Q. Okay. Do you understand that we asked to
22 speak with someone who could testify on behalf of the
23 City of Atlanta on various subjects?

24 **A. Yes.**

25 Q. And you understand that the city chose you

1 to testify about the identities and roles of various
2 witnesses in this case?

3 **A. Yes, sir.**

4 Q. And the city also chose you to testify about
5 the city's discovery responses in this case.

6 **A. Yes, sir.**

7 Q. And you understand that the answers that you
8 give today will be binding on the City of Atlanta?

9 **A. Yes, sir.**

10 Q. Have you ever been deposed before?

11 **A. Yes, sir.**

12 Q. How many times have you been deposed?

13 **A. Maybe four.**

14 Q. And were those cases involving allegations
15 of the excessive use of force by a City of Atlanta
16 police officer?

17 **A. Yes. More specifically, officer-involved**
18 **shootings.**

19 Q. Okay. All right. I'm going to briefly
20 share my screen with you. Can you see the document I
21 have labeled as Plaintiff's Exhibit 99 on your screen?

22 **A. Yes, sir.**

23 Q. And have you seen this document before?

24 **A. Yes, sir.**

25 Q. And from my understanding, you've been

1 designated to speak on Topic No. 1. Is that correct?

2 **A. Yes, sir.**

3 Q. And then also on Topic 11. Is that right?

4 **A. Yes, sir.**

5 Q. Are there any other topics on this list that
6 you -- that you have been asked to speak about?

7 **A. No, sir.**

8 Q. Okay. Excluding conversations with your
9 lawyers who are here with us today and may not be
10 here, what did you do to prepare for today's
11 deposition?

12 **A. I reviewed the file.**

13 Q. And when you refer to "the file," what
14 specifically are you referring to?

15 **A. The write-up. I did the write-up and the**
16 **body-worn camera. And also we don't see the charges,**
17 **the punishment, I will say, of the accused officer at**
18 **all unless a situation like this comes about, and I**
19 **was able to see what the -- what the officers**
20 **involved -- what the punishment was.**

21 Q. Okay. So typically you make a
22 recommendation as to what a punishment should be, and
23 then that's -- so it's sort of off your desk?

24 **A. No, sir. No. We don't make a**
25 **recommendation. We just find the facts. And when I**

1 turn it in, I don't see it again ever unless a
2 situation like this comes back -- comes up. And then
3 when I do see it, I see how my supervisor wrote up he
4 should be sustained for this or not sustained for that
5 and exonerated, and that's the first I see of it.

6 Q. Okay. And who is your supervisor?

7 A. That would be Lieutenant Zenelaj. Well,
8 he's a captain now, but at the time
9 Lieutenant Zenelaj.

10 Q. Okay. Did you review the lawsuit that was
11 filed in this case?

12 A. Yes. Your -- what the plaintiff is
13 alleging?

14 Q. Yes, sir.

15 A. Yes.

16 Q. Did you review any of the City of Atlanta's
17 discovery responses?

18 A. Yes.

19 Q. And which ones did you review?

20 A. I have the -- can you see it? I have this,
21 which is the -- I think that's the -- what you have on
22 the screen. And plaintiff's request for production.
23 And I have the plaintiff's first request for
24 production -- the responses.

25 Q. Oh, is that -- I'm sorry. I didn't realize

1 you had finished. Is --

2 **A. Oh.**

3 Q. Do you have the responses to the request for
4 admission?

5 **A. I do.**

6 Q. And do you have the responses to the request
7 for production of documents?

8 **A. I'm sure I do. I'm sure I do. It's just a**
9 **lot of paperwork, but I'm sure I do.**

10 Q. Okay. Did you read the interrogatory
11 responses in their entirety?

12 **A. Not in their entirety, no, sir.**

13 Q. Which ones did you focus on?

14 **A. What I was scheduled to testify on.**

15 Q. Okay. So any interrogatory dealing with
16 witnesses or their roles -- their roles in the case?

17 **A. Yes, sir. Yes. Exactly.**

18 Q. And then which request for admission did you
19 look at?

20 **A. Which request for admission?**

21 Q. Yes, sir.

22 **A. I'm sorry. Can you break that down a little**
23 **bit for me?**

24 Q. Sure. Did you -- did you look at any of the
25 city's responses to the plaintiff's request for

1 admission?

2 **A. I glanced over some of them, but I just -- I**
3 **did look at 1 and 11.**

4 Q. And when you -- 1 and 11 being the topics on
5 Plaintiff's Exhibit 99?

6 **A. Correct. The --**

7 Q. Okay.

8 **A. The witnesses and their roles.**

9 Q. Okay. Is there anything that you disagreed
10 with in the city's responses to the plaintiff's
11 request for admission?

12 **A. That I disagree with? No.**

13 Q. Is there anything that you disagree with in
14 the city's responses to plaintiff's interrogatories?

15 **A. No. No, sir.**

16 Q. Did you watch any of the body camera footage
17 of the officers involved in this case to prepare --

18 **A. I did.**

19 Q. -- for the deposition?

20 **A. I did.**

21 **COURT REPORTER: I beg your pardon, but it**
22 **looks like one of the other witnesses has entered the**
23 **meeting.**

24 (Off-the-record discussion.)

25

1 BY MR. KAHN:

2 Q. When was the last time you watched the
3 video -- body camera --

4 A. Yesterday. Yesterday.

5 Q. And did you -- have you watched all of the
6 body camera footage?

7 A. Yes.

8 Q. Okay. Did you review any of the documents
9 that the City of Atlanta produced in this case?

10 A. As far as the request for production and
11 that -- those items?

12 Q. Yes, sir.

13 A. Yes.

14 Q. And what specifically did you review?

15 A. I guess it's the -- I guess it would be the
16 same thing as before, the plaintiff's request for
17 production.

18 Q. Um-hum. So I guess maybe we -- I should be
19 a little clearer. Did -- in preparing for the
20 deposition today, did you look at any of the physical
21 documents that the city produced in the case that were
22 Bates-labeled?

23 A. I'm sure I glanced over it, but I was
24 more -- I more looked at the video and the file in
25 preparation for the deposition.

1 Q. Okay.

2 **A. The actual investigative file that I did.**

3 Q. And has your entire investigative file been
4 produced in the -- in the case?

5 **A. Yes, sir, it has.**

6 Q. Okay. Did you review any of APD's standard
7 operating procedures to prepare today?

8 **A. To prepare for today? No.**

9 Q. Are you generally familiar with the SOPs?

10 **A. Yeah. Generally, yes, sir. Um-hum.**

11 Q. Besides your attorneys, did you speak with
12 any city employees to prepare for today's deposition?

13 **A. No, sir.**

14 Q. When you're investigating an allegation of
15 excessive force, what are you generally looking for?

16 **A. The reasonableness and the necessary. Was**
17 **it reasonable that the officer did whatever it is he**
18 **or she did, and was it necessary that the officer did**
19 **whatever he or she did.**

20 Q. And how would you -- what is the standard
21 for reasonableness, as you understand it?

22 **A. There's a case law Graham v. Connor. It's**
23 **the totality of the whole situation. You've got to --**
24 **you have to look at the whole situation and apply was**
25 **it reasonable and was it necessary that the officer**

1 did whatever it is they did.

2 It's a -- it's a -- each investigation is
3 situational. So each one has to be looked at
4 independently, and you have to take the reasonableness
5 and the necessary -- was it reasonable that this
6 officer did whatever it is they did and was it
7 necessa- -- was it absolutely necessary that they did
8 what they did.

9 Q. Okay. So would you agree that police
10 officers should only use force if it's necessary?

11 A. Correct. Yes, sir.

12 Q. And would you agree that if required to use
13 force, police officers should only use reasonable
14 force?

15 A. Correct. Yes, sir.

16 Q. Would you agree that police officers should
17 attempt to deescalate a situation before using force?

18 A. Most definitely. Yes, sir.

19 Q. Is it fair to say that an officer's
20 subjective belief that force is necessary alone is not
21 enough to justify the use of force?

22 A. Yes, sir.

23 MS. NAIR: Objection.

24 BY MR. KAHN:

25 Q. I'm sorry. Can you -- was that a "yes"?

1 **A. Yes.**

2 Q. Thank you.

3 The decision to use force has to be
4 reasonable under an objective standard. Correct?

5 **A. Correct.**

6 Q. And what is -- what does that objective
7 standard mean to you?

8 MS. NAIR: Objection as to form.

9 BY MR. KAHN:

10 Q. You can answer.

11 **A. That you have to look at it from the**
12 **objective -- you have to just, like, stand outside of**
13 **yourself and look at it and say, okay, if I was a**
14 **stranger just looking at this, would it be right for**
15 **this person to do what they're doing.**

16 Q. Okay.

17 **A. Not knowing what I know as far as the law**
18 **and our policies and whatnot.**

19 Q. Okay. That makes perfect sense.

20 What are the various outcomes of an
21 investigation of police misconduct?

22 **A. What are the outcomes?**

23 Q. Yes, sir.

24 **A. You can be exonerated. You can be**
25 **sustained, which is basically, like, guilty. Or you**

1 can be not sustained, which is we can't prove that
2 the -- you did whatever it is you did.

3 Exoneration is we have proof to show that
4 you did not do what you're accused of. Sustained is
5 we have something saying that you did what you did.
6 And not sustained just means that you're -- you're not
7 guilty, but only because we couldn't prove it.

8 Q. Okay. And that covers my next questions,
9 which was what's the difference between not sustained
10 and exonerated. So we can --

11 A. Right.

12 Q. -- skip that.

13 A. Yeah.

14 Q. What does "unfounded" mean?

15 A. That is that there's no basis for the
16 complaint at all. Like, the complainant completely
17 fabricated the allegation.

18 Q. Okay. And how would you arrive at a
19 conclusion of unfounded?

20 A. Body-worn camera. If we have -- if the
21 complainant said, "The officer punched me in the
22 nose," and we look at the body-worn camera and it
23 never happened, then we can unfound it.

24 Q. Okay. Is the biggest -- the biggest factor
25 in determining the outcome generally going to be the

1 body-worn camera?

2 **A. Yeah, it is now. The body-worn camera has**
3 **been instrumental in exoneration, sustaining, and**
4 **unfounding --**

5 Q. Okay.

6 **A. -- because that's our proof. We do pretty**
7 **much need some type of proof to unfound and to**
8 **exonerate.**

9 Q. So in a situation where it's the police
10 officer's word versus the word of the arrestee, and
11 there's no video proof, what sort of designation would
12 you give that situation?

13 **A. If it's a situation that we just -- say the**
14 **officer is accused of taking some money and not**
15 **turning in some money. The officer says he did**
16 **turn -- he did -- he didn't take it; the complainant's**
17 **saying he did. We don't have any proof saying**
18 **either-or; then that would be a not sustained.**

19 Q. Okay. Once you conclude an investigation in
20 a complaint is sustained, do you make disciplinary
21 recommendations?

22 **A. No, sir. That's totally out of my -- not my**
23 **level.**

24 Q. What department or, you know, component of
25 the APD makes the actual recommendations of

1 discipline?

2 **A. That would be the employee's chain of**
3 **command, which would be the FO -- the deputy chief of**
4 **FOD, field operation division. On this list, it would**
5 **be Chief Glazier. So he would be the one to recommend**
6 **discipline.**

7 Q. And when you say "chain of command," does
8 that mean -- so deputy chief -- the deputy chief -- is
9 that someone who is working with the -- working
10 closely with the officer being investigated?

11 **A. He's not working -- the file eventually will**
12 **land on his desk.**

13 Q. Okay.

14 **A. We have six different deputy chiefs. Each**
15 **deputy chief is in charge of a different facet in the**
16 **department. And the zones all fall under one deputy**
17 **chief, and at that -- at the time of this incident, it**
18 **was Chief Glazier.**

19 Q. Are you --

20 **A. So --**

21 Q. -- familiar -- I'm sorry. You had something
22 to add?

23 **A. No. Just after I investigate it and give it**
24 **to my lieutenant, my lieutenant gives it to our major,**
25 **and it goes up to Chief Glazier's desk. Then he takes**

1 **a look at it. And if it's sustained, then he's the**
2 **one that recommends the discipline.**

3 Q. Okay. And as you're -- you know, as you're
4 reviewing the file, do you ever form personal opinions
5 as to, you know, whether or not or how the police
6 officer should be disciplined?

7 **A. Yeah. It comes up, yeah.**

8 Q. Okay. And are you familiar with the various
9 types of discipline?

10 **A. There are so many. You can have an oral**
11 **admonishment. You can have a suspension. You can be**
12 **terminated. There are -- there are many. And it's**
13 **up --**

14 Q. Okay. If -- sorry.

15 **A. -- to the --**

16 Q. Go ahead.

17 **A. No, no. No problem. It's up to the**
18 **discretion of the deputy chief.**

19 Q. Are there guidelines that suggest what sort
20 of discipline should be given for certain types of
21 infractions?

22 **A. Yes, there is.**

23 Q. And are those -- are those guidelines
24 mandatory, or are they totally discretionary?

25 **A. No. I believe that it's mandatory. It**

1 falls within a range of if you did this, then they --
2 you can be disciplined up to -- within this guideline.

3 You may not get the --

4 Q. Okay.

5 A. -- brunt of it, and you might not get the
6 lesser end of it. You might come more somewhere in
7 between.

8 Q. So if someone -- if someone were accused and
9 found -- or accused and sustained for violating a
10 serious rule, the person awarding the discipline would
11 have to give the disciplinary outcome that falls
12 within the range set by the rules?

13 MS. NAIR: Objection as to form.

14 But you may answer, Investigator Nixon, if
15 you know.

16 MR. KAHN: I'm sorry. What was that
17 objection?

18 MS. NAIR: The objection is as to form -- as
19 to the form of your question. But if Investigator
20 Nixon is able to answer your question, he may.

21 MR. KAHN: Okay.

22 A. Can you say -- ask the question one more
23 time?

24 BY MR. KAHN:

25 Q. Sure. Let me see if I can rephrase it a

1 little bit.

2 So if a police officer is found to have
3 violated a serious rule that, say, requires suspension
4 from four to ten days, and that -- the deputy chief
5 does not discipline that officer within that range, is
6 that something that would be a rule violation?

7 **A. Yeah. If it's -- if it's -- I'm speaking --**
8 **not that I've seen this, but I would say it would be.**

9 Q. Okay. Would you agree that the prohibition
10 of unreasonable force must carry consequences to
11 dissuade officers from using excessive force?

12 **A. Yes.**

13 Q. And would it be fair to say that without
14 real consequences for using excessive force, police
15 officers could use force with impunity?

16 **A. I can see where that would happen, yes.**

17 Q. If an officer is accused of using excessive
18 force numerous times, does that trigger a more
19 in-depth investigation of subsequent allegations of
20 excessive force?

21 **A. We have what's called a -- it's an alert**
22 **system that's supposed to trigger -- I don't -- I**
23 **don't -- I'm not involved with the alert system. Our**
24 **file room is. But if an officer has repeated**
25 **instances of use of force, there's a system in place**

1 that's supposed to alert us that we have met -- you
2 know, we might have to get them some help or is there
3 something going on in his life, that sort of thing.

4 Q. Okay. And what's that -- what's that system
5 called?

6 A. Early warning. Early warning.

7 Q. And is that like a -- is the early warning
8 system -- is that like a computer program, or is it
9 just someone who's monitoring the numbers and making a
10 recommendation?

11 A. I believe it's a computer program. Once
12 the -- once the information is entered into the
13 system -- like, say, if this -- if an officer has ten
14 instances of use of force -- hopefully the system
15 would catch it before the tenth one. But by whatever
16 the gauge is that we're supposed to catch it, once
17 it's entered in as an official complaint, it's
18 supposed to trigger the early warning.

19 Q. Okay. And so -- and how does it -- I guess
20 how do you receive the notification of an -- of an
21 early warning? Like, how does that -- how does that
22 come up in your investigations?

23 A. I don't. When I get the file, it's -- I
24 only -- I only have what is in front of me. And I
25 don't know what their past is, what they -- like, if I

1 get a John Doe complaint and John Doe is accused of
2 use of force, if John Doe had ten use of forces in the
3 past, I won't know about it.

4 Q. Okay. I guess is -- is a history of the use
5 of excessive force something that you would find
6 relevant to your investigation?

7 A. It would put -- it would put some context
8 into it. But I would have to -- I would have to
9 investigate this particular investigation on its own
10 merits. But I can see where the past can add to it,
11 but I'm only to look at this particular investigation.

12 Q. Okay. That makes sense.

13 What role did you play in the investigation
14 of Donald Vickers' use of force?

15 A. I was the investigator.

16 Q. And so you interviewed Donald Vickers?

17 A. Yes.

18 Q. Do you have an independent recollection of
19 your interview with Defendant Vickers?

20 A. Yes, I do.

21 Q. Okay. So let me -- let me take a step back.
22 How many -- how many use-of-force
23 investigations are you generally performing in a given
24 year?

25 A. I'm on the officer-involved shooting team;

1 so that adds to it. You want a number?

2 Q. Sure. If you -- if you can.

3 A. Maybe 15. Maybe -- no more than about 20 a
4 year.

5 Q. And just speaking generally now, between
6 those 15 to 20 allegations of excessive force, how
7 many are generally going to be sustained?

8 A. Now, are you -- our officer-involved
9 invest- -- or shootings -- they're police shootings,
10 but they are a use of force. The majority of those
11 are good shootings. But we do have some use-of-force
12 investigations where the officer is sustained. Like
13 the example I gave earlier with Officer Lancerot. I
14 would say about maybe 30 to 40 percent.

15 Q. Okay.

16 A. My use -- my use-of-force investigations I
17 would go a little bit higher than 20, but I would say
18 about 30 or 40 percent.

19 Q. Okay. All right. So we'll get back into
20 the specific investigation of Vickers.

21 When you were interviewing Donald Vickers,
22 did you doubt his truthfulness at all?

23 A. No. Well -- no. A lot of the truthfulness
24 in a -- it's their perception of what -- what they
25 perceive. Like, I can ask -- like, in my shootings,

1 the officer may think one thing, but it's actually
2 something else. I would -- you know, I shot ten
3 times, but they really only shot twice.

4 So with Vickers, I didn't doubt he was -- I
5 didn't think he was lying.

6 Q. Okay. You seemed to hesitate a little bit.
7 Is there -- was there something strange about your
8 interview with Defendant Vickers?

9 A. No. No. No. I just had to go back -- I
10 watched so much body camera that the interview --
11 where that was, like, secondary instead of body
12 camera. I watched the body camera a lot.

13 Q. Okay. And did Donald Vickers' story make
14 sense to you as a police officer?

15 MS. NAIR: Objection.

16 You may answer.

17 It's speculative but objection.

18 A. Yes, it did.

19 BY MR. KAHN:

20 Q. What did you do to prepare for your
21 interview of Donald Vickers?

22 A. Watched the body camera.

23 Q. And I think you may have answered this, but
24 did you review his disciplinary history before the
25 interview?

1 **A. No. Unh-unh.**

2 Q. Did you speak with any of the other
3 witnesses before interviewing Donald Vickers?

4 **A. No.**

5 Q. And so when you're -- when you're studying
6 the body cam footage, how much time would you say
7 you're spending, like, looking at the video and, you
8 know, watching it and rewatching it?

9 **A. That can be time-consuming, because you're**
10 **rewinding. I've got software where I can put it in**
11 **slow motion. And you don't want to miss -- you don't**
12 **want to miss anything. So with the different -- I**
13 **believe there were five or six videos. You just want**
14 **to watch it so you can get a total picture of what**
15 **happened.**

16 Q. Okay. And so of the five to six videos in
17 this case, how many times would you say you watched
18 each of those videos?

19 **A. Each video I'd say maybe no more than four.**
20 **Because I would watch Vickers' and the -- Abad's video**
21 **more so than the other videos, but I have seen the**
22 **other videos.**

23 Q. Okay. In this -- in this case, which video
24 do you think is the most important?

25 **A. Abad's.**

1 Q. So I know you said that you hadn't looked at
2 Vickers' disciplinary history, but before interviewing
3 Vickers, were you aware of his disciplinary history?

4 A. No. When I -- when Vickers -- when I met
5 Vickers, that was my first time ever meeting him.

6 Q. As we sit here today, are you aware of his
7 disciplinary history?

8 A. I've heard that I guess there's -- he's got
9 some stuff going on.

10 Q. Does having knowledge of Vickers'
11 disciplinary history change your view of what you were
12 looking at of the body cam footage?

13 MS. NAIR: Objection.

14 A. No. And that's where I -- I'm kind of like
15 I'm glad I don't know the officer's history. That way
16 I don't go in with a preconceived opinion about
17 whatever the situation is. It was only until -- I
18 guess when all this started surfacing is when I
19 started hearing about he had a -- some things going on
20 in his history.

21 BY MR. KAHN:

22 Q. Okay. And when you say "some things going
23 on in his history," what do -- what does that mean to
24 you?

25 A. I think a use of -- some use-of-force

1 **situations.**

2 Q. As we sit here today, how many instances of
3 use-of-force allegations against Mr. Vickers are you
4 aware of?

5 A. It -- I think at least one, but, like I
6 said, I haven't seen it. But just the -- when this
7 lawsuit came up and we were prepping for the lawsuit
8 and the file room was -- let me know what was going
9 on, his name came up, and I guess he had some things
10 going on.

11 Q. Okay. Is it fair to say that prior
12 complaints of excessive force make it more likely that
13 the officer being investigated used excessive force at
14 that given time?

15 A. There is a probable cause to believe that
16 you -- again, I like to investigate the -- whatever
17 investigation I have on its own merits. But if there
18 is prior allegations from citizens, then there may be
19 something to it.

20 And we're seeing that with the
21 officer-involved shootings that are happening across
22 the country where officers that are being terminated
23 are being -- like the situation in Clayton County.
24 We're hearing that that officer had some prior
25 complaints. So there are -- there is something to it.

1 **There --**

2 Q. Okay.

3 A. -- may be something to it.

4 Q. And what situation in Clayton County are you
5 referring to?

6 A. The officer-involved shooting. I'm sorry.
7 Not officer but the -- there was a man that got pulled
8 over in a Uber. Instead of focusing on the driver,
9 they focused on the passenger in the back seat. And
10 so that officer was terminated.

11 So after the termination, more people have
12 come out and said, yeah, this guy did this to me; this
13 guy did this to me; this guy did this to me. So --

14 Q. Um-hum.

15 A. -- when we see stuff like that, it can lead
16 to be -- when citizens make complaints on an officer
17 over and over and over, there may be something to it.

18 Q. Okay. And how many -- how many allegations
19 of excessive force does it take for APD to terminate
20 an officer?

21 A. That is -- that -- I'm not sure if there's
22 anything written, but that's definitely a deputy chief
23 or a command staff decision.

24 Q. Okay. And in terms of Matthew Abad's
25 investigation, did you also interview him?

1 **A. I did.**

2 Q. And do you also have an independent
3 recollection of Officer Abad?

4 **A. Yes.**

5 Q. Did you doubt his truthfulness at all during
6 the interview?

7 **A. No.**

8 Q. And his story also made sense to you?

9 **A. Yes. What I recall, yes.**

10 Q. And in terms of preparation for Abad's
11 invest- -- or interview -- excuse me -- the same
12 preparation? Watching the body cam footage?

13 **A. Yes.**

14 Q. Okay. And I believe you said that the last
15 time you watched the footage was yesterday. Is
16 that -- is that right?

17 **A. Correct.**

18 Q. Okay. I'm going to share my screen and show
19 a clip of the video to you right now. If y'all would
20 give me just a moment.

21 Can you see -- can you see my screen on your
22 screen?

23 **A. No, sir.**

24 Q. How about now?

25 **A. Yes, sir. I can see it.**

1 Q. Okay. All right. So I'm going to show this
2 video. If you have any trouble hearing it or seeing,
3 just let me know, and we'll --

4 **A. Yes, sir.**

5 Q. -- try to figure it out.

6 **A. Okay.**

7 (Video plays.)

8 BY MR. KAHN:

9 Q. Okay. Do you think there's anything wrong
10 with the way that Defendant Abad acted in that video?

11 MR. KAHN: And that video --

12 MS. NAIR: Objection.

13 MR. KAHN: For the -- for the record, that
14 video is Plaintiff's Exhibit 1.2.

15 MS. NAIR: Objection again as to form and as
16 to outside the scope of what Mr. -- Investigator Nixon
17 is here to testify to. Anything that Investigator
18 Nixon is testifying to would be his personal opinion,
19 not the city's opinion.

20 **A. I would not have done that. The -- your**
21 **client -- he brushed Abad's hand off of his shoulder.**
22 **I mean, that wasn't enough to tackle him and knock him**
23 **down. That's just -- that's just me.**

24 BY MR. KAHN:

25 Q. Okay. And we'll -- so we'll get to Vickers

1 in a second. For now, I just want to focus on
2 Officer Abad.

3 So specific to Officer Abad, is there
4 anything that you think he did wrong in the -- in the
5 video?

6 MS. NAIR: Objection again as to form. This
7 is Investigator Nixon's personal opinion. He's not
8 called to testify as to the city's opinion.

9 A. If you're talking about having his weapon
10 out approaching the car, I'm assuming he had it out
11 because he figured he -- that since they almost got
12 hit on the other road -- a head-on collision -- that
13 he may have been trying to run them over.

14 But he -- I believe he holstered when he
15 went to the window and was speaking to him. It was --
16 it was then when -- you know, where you saw Vickers
17 tackle him while they were conversing. So . . .

18 BY MR. KAHN:

19 Q. Um-hum. Okay. Is there anything that you
20 think Defendant Abad should have done differently?

21 MS. NAIR: Same objection.

22 A. Not right offhand, because he was having a
23 conversation with him. It didn't get -- it didn't get
24 physical until Vickers came and tackled him. And I
25 believe Abad had holstered. Because he asked him,

1 "What are you doing?" And that's when your client
2 brushed his hand off. That's when Vickers tackled
3 him, and it just went -- it just went from there.

4 BY MR. KAHN:

5 Q. Okay. Was there anything wrong with Abad
6 pointing the gun at my client as he approached the
7 car?

8 A. No.

9 Q. Can you think from watching the video that
10 Officer Abad had the opportunity to stop Mr. Vickers
11 from tackling my client?

12 A. I don't know if he saw him coming. I might
13 be wrong, but -- I mean, we can see in the camera --
14 we can see Vickers running towards Abad, but I don't
15 know if he saw him coming, because Abad was conversing
16 with your client.

17 Q. Okay. If Officer Abad didn't holster his
18 weapon while he was talking to Mr. Griffin, would that
19 be a problem?

20 A. If he still had the weapon out?

21 Q. Yes, sir.

22 A. It could be, because my focus would be on
23 getting him in custody, because you already have --
24 the probable cause for arrest is the collision they
25 had on the street on Chattahoochee. You already have

1 a reason to arrest. So if he kept the gun out, yeah,
2 I would say, you know, my focus would be on getting
3 him in cuffs.

4 Q. Okay. And about the collision on
5 Chattahoochee -- have you seen any dashcam footage or
6 body cam footage showing that near-collision?

7 A. No. And I believe that's one of the things
8 they got written up for was the way they handled their
9 body cameras. They were out of policy -- outside of
10 policy with their body cameras.

11 Q. Okay. And what is the -- I guess what's the
12 general policy about dashcam footage?

13 A. Dashcam or body cam?

14 Q. Dashcam in the vehicle.

15 A. If the vehicle's equipped with dashcam, it's
16 supposed to activate as soon -- well, it's supposed to
17 start recording as soon as you flip the blue lights
18 on --

19 Q. Okay. So --

20 A. -- if it's --

21 Q. -- it's not --

22 A. -- working properly.

23 Q. I'm sorry. So it's --

24 A. No.

25 Q. -- not something that would just

1 automatically record. So, like, if their lights
2 weren't on and a car did almost hit them, it's not
3 something that would be captured. They would have to
4 activate a switch?

5 **A. Correct. Yes.**

6 Q. Okay. That makes sense.

7 MS. NAIR: I just want to pause for a moment
8 because we're about 15 minutes from the top of the
9 hour, and I just want to know about how much longer
10 you have for Investigator Nixon.

11 MR. KAHN: I think we might be able to
12 finish in 15 minutes. Maybe 30 minutes.

13 BY MR. KAHN:

14 Q. Okay. Now, in terms of Defendant Vickers
15 and the way he acted in Plaintiff's Exhibit 1.2, is
16 there anything wrong with the way he acted?

17 MS. NAIR: Objection in regards to form and
18 as to what Investigator Nixon is here to testify as
19 to. Anything that Investigator Nixon is testifying to
20 now will be his personal opinion.

21 MR. KAHN: And, Ms. Nair, I'm happy to give
22 you a standing objection to any question outside the
23 scope.

24 MS. NAIR: No. Thank you. I'll object each
25 time.

1 **A. Can I hear the question --**

2 BY MR. KAHN:

3 Q. You can answer unless you -- I can rephrase
4 it or restate it for you.

5 Do you think there's anything wrong with the
6 way Defendant Vickers acted in Plaintiff's
7 Exhibit 1.2?

8 **A. Yes.**

9 Q. Do you think that Defendant Vickers was
10 justified in his use of force?

11 MS. NAIR: Objection as to form. Anything
12 that Investigator Nixon testifies to is his personal
13 opinion and not a reflection of the city's opinion.

14 **A. Again, I would have handled it differently.**
15 **I wouldn't have tackled somebody like that for a**
16 **swiping of the hand. So I would have handled -- I**
17 **would not have tackled.**

18 BY MR. KAHN:

19 Q. Okay. And I want to -- I'm going to show
20 you another video clip that's been marked as
21 Plaintiff's Exhibit 4.2, if you'll give me just a
22 second to get it set up here.

23 Can you -- can you see the files on my
24 screen, sir?

25 **A. Yes, sir, I can.**

1 Q. Thank you. Okay. All right.

2 (Video plays.)

3 BY MR. KAHN:

4 Q. Mr. Nixon, do you think there's anything
5 wrong with the way Defendant Vickers acted in
6 Plaintiff's Exhibit 4.2?

7 A. Yes.

8 MS. NAIR: Objection. Anything that
9 Investigator Nixon testifies to is his personal
10 opinion, not a reflection of the city's opinion.

11 A. Yes.

12 BY MR. KAHN:

13 Q. And what do you think he did wrong?

14 MS. NAIR: Same objection.

15 A. When a person is requesting aid in the way
16 that your client was, we are to start an ambulance --
17 have an ambulance come and make that assessment.

18 BY MR. KAHN:

19 Q. Do you think it's -- do you think the way
20 that Defendant Vickers spoke to Mr. Griffin was
21 appropriate?

22 A. No.

23 Q. All right. I want to show you a document
24 that's been marked as Plaintiff's Exhibit 43. Can you
25 see Plaintiff's Exhibit 43 on your screen?

1 **A. Yes.**

2 Q. All right. Have you seen this document
3 before? And I can scroll through it if you'd like to
4 see the entire document.

5 **A. It's my -- I think it's the one I prepared.**
6 **I authored this.**

7 Q. Okay. And does Plaintiff's Exhibit 43
8 contain summaries of your investigation?

9 **A. Yes, it does.**

10 Q. All right. So we'll look at page -28 of
11 this document. Do you see -- I'm going to go ahead
12 and highlight it. Do you see the highlighted text
13 that says, "SPO Vickers had to swerve the vehicle in
14 order to not be struck by the oncoming car"?

15 **A. Correct.**

16 Q. And, again, have you seen any video proof to
17 support Vickers' allegation?

18 **A. No. Now, that -- what that is is**
19 **SPO Vickers -- that should be a summary of SPO**
20 **Vickers' statement.**

21 Q. Oh, okay. So this --

22 **A. Yeah.**

23 Q. -- is -- this is --

24 **A. Because --**

25 Q. This does not contain your beliefs. This is

1 just a summary of his -- of his --

2 **A. Correct.**

3 Q. -- statement?

4 **A. Right. That's basically what he told me --**
5 **told me. Yes.**

6 Q. Okay. And so the findings in Plaintiff's
7 Exhibit 43 are based entirely on Vickers and Abad's
8 interviews and I guess interviews of the other
9 witnesses. Is that -- is that right?

10 **A. The findings actually -- if you go -- you**
11 **scroll to the very bottom, this -- yeah. This --**
12 **where it says, "This" --**

13 Q. Right here?

14 **A. -- "investigation finds" -- yeah. That**
15 **right there are the facts.**

16 Q. And these are the facts as you had found
17 them to be --

18 **A. Correct. Yes.**

19 Q. -- after your investigation? Okay.

20 **A. Correct. The other -- their statements are**
21 **more just what they said. If they said the sky was**
22 **gray, then it goes in because it's part of their**
23 **statement. But within "This investigation finds**
24 **that," that's where -- the facts.**

25 Q. Sorry. I lost my place. If you'll give me

1 just a second.

2 **A. Not a problem.**

3 MS. NAIR: Actually, this is a perfect time
4 to take a pause. We -- I need a five-minute break.

5 MR. KAHN: Okay. We can do that.

6 MS. NAIR: Investigator Nixon, if you can go
7 off camera and mute your microphone while we --

8 THE WITNESS: Okay.

9 MS. NAIR: -- go on our five-minute break.

10 THE WITNESS: Okay.

11 MS. NAIR: And we'll come back at 2 -- at
12 3:00.

13 MR. KAHN: All right.

14 MR. BUTLER: Before we go on break --
15 Ms. Nair, this is Jeb Butler -- just let me remind
16 everybody that Investigator Nixon is under oath. So
17 it would be inappropriate and a violation of the rule
18 for anyone to speak with him about the deposition
19 during the break.

20 MS. NAIR: Thank you. Can -- thank you for
21 that reminder.

22 MR. BUTLER: All right.

23 THE WITNESS: Understood.

24 MS. NAIR: Can we -- can we go off of
25 recording for just a half a second? Off the record.

1 (OFF THE RECORD 2:54-3:00 P.M.)

2 BY MR. KAHN:

3 Q. So let me -- I'm going to have up
4 Plaintiff's Exhibit 43. I'm going to reshare that
5 with you, if you'll give me just a second here.

6 MS. NAIR: The meeting is not being recorded
7 at this time.

8 MR. KAHN: Thank you, Ms. Nair.

9 Madam Court Reporter, would you mind --
10 there we go. Thank you.

11 BY MR. KAHN:

12 Q. All right. Now, Mr. Nixon, can you see
13 Plaintiff's Exhibit 43 on your screen?

14 **A. I do, yes.**

15 Q. All right. Do you see the highlighted field
16 at the bottom of the screen that says, "Once he was
17 tackled, Mr. Griffin stopped resisting"?

18 **A. Yes.**

19 Q. I'll take this off.

20 Now, we just -- we just watched the video of
21 Mr. Griffin being tackled. Right?

22 **A. Correct.**

23 Q. Do you think Mr. Griffin was resisting
24 arrest in that video?

25 **A. It's -- I believe when he swiped the hand,**

1 **Officer Abad was attempting to get him in custody.**

2 Q. Would you characterize -- I believe earlier
3 you called it a brush.

4 **A. Right.**

5 Q. Would you -- would you consider brushing off
6 Officer Abad's hand to be resisting arrest?

7 **A. There is -- there is instances of passive**
8 **resistance where if I was to take somebody into**
9 **custody and they just laid on the floor prone and not**
10 **give me their arms and they just stiffen up, that's**
11 **resisting also. Although it's passive resistance,**
12 **it's still resistance.**

13 Q. Okay.

14 **A. So when Abad grabbed his shoulder or his**
15 **shirt, it was to pull -- I believe it was to pull him**
16 **away from the car to get him in custody. And when he**
17 **pushed his hand to the side -- now, also I believe**
18 **that was part of a statement that I wrote that as --**
19 **if that was part of a statement, that's what was told**
20 **to me. That was -- that was not in my investigative**
21 **findings.**

22 Q. Okay. Do you -- do you think that
23 Defendant Abad was justified in his decision to grab
24 Mr. Griffin's arm?

25 **A. Yes.**

1 Q. Okay. All right. I'm going to reshare the
2 screen. This is still Plaintiff's Exhibit 43. Can
3 you see the highlighted quotation at the top that
4 says, "Yeah. Several minutes after he was in
5 handcuffs and we tried to get him up, he did complain
6 that, uh, his foot or his leg was hurt"?

7 A. Yes.

8 Q. So is it fair to say that Defendant Vickers
9 and Abad knew that Mr. Griffin was injured after the
10 tackle?

11 A. Yes.

12 Q. And isn't it true that when -- or isn't it
13 true that police officers are supposed to request
14 medical attention when a -- when a person is seriously
15 injured?

16 A. Yes.

17 Q. And the police officers in this case did not
18 call an ambulance. Is that correct?

19 A. Correct.

20 Q. Now, do you see the -- there's another
21 highlighted field on the same page. It says, "Uh, we
22 were as courteous as possible."

23 A. Yes.

24 Q. And you just watched a video a few minutes
25 ago where Vickers told Griffin that he was acting like

1 a little girl. Right?

2 **A. Correct.**

3 Q. Is that courteous behavior?

4 **A. No --**

5 MS. NAIR: Objection.

6 **A. -- it's not.**

7 MS. NAIR: Anything that Investigator Nixon
8 tests to -- testifies to is his personal opinion, not
9 the opinion of the city.

10 But you may answer as to your personal
11 opinion, Investigator Nixon.

12 THE WITNESS: Yes, ma'am.

13 **A. In my opinion, no, it was not. When he**
14 **said, "We were as courteous as possible," they had**
15 **just had almost a head-on collision. I believe it was**
16 **raining that night. So there was a lot of factors**
17 **that had them -- I'm not saying -- I'm not justifying**
18 **their behavior. But there was a lot of factors that**
19 **lead them to say what they said, but I'm not**
20 **justifying their actions.**

21 BY MR. KAHN:

22 Q. Okay. Were there any other APD employees
23 that played a role in the investigation?

24 **A. In the investigation? No. If you're**
25 **talking about the officers that responded after the**

1 fact, I did not speak to them because they didn't
2 witness what Mr. -- your client -- his allegation as
3 far as the breaking of his foot. They weren't there
4 when that happened.

5 Q. Okay. Do you know if the SUV that Vickers
6 and Abad were in had a dashcam?

7 A. I don't believe it did. Our dashcams in
8 many of the cars are -- the technology in it is not
9 like our body cameras. And so with the vast majority
10 of them, they do not work.

11 In this instance, I want to -- I can't
12 remember for sure, but I want to -- I want to say that
13 I was told there was no video.

14 Q. Okay.

15 A. And if there was, I didn't get it. It was
16 not provided to me.

17 Q. I'm going to -- I'm going to share my screen
18 with you again and watch a -- we're going to watch a
19 few more videos.

20 A. Yes.

21 Q. All right.

22 (Video plays.)

23 BY MR. KAHN:

24 Q. Do you think that --

25 MS. NAIR: I have a question. I apologize.

1 Is this video marked as an exhibit?

2 MR. KAHN: Yes. So this is Plaintiff's
3 Exhibit 4.1.

4 MS. NAIR: Okay. Can you please identify
5 what the exhibits are when you're --

6 MR. KAHN: Sure. Yeah.

7 MS. NAIR: Thank you.

8 BY MR. KAHN:

9 Q. Mr. Nixon, do you see anything wrong with
10 what Defendant Abad is doing in that video?

11 MS. NAIR: Objection --

12 **A. Yes.**

13 MS. NAIR: -- as to form. This would be
14 Investigator Nixon's personal opinion, not the opinion
15 of the city.

16 **A. Yes.**

17 BY MR. KAHN:

18 Q. And what is -- what's wrong with what he's
19 doing in the video?

20 **A. After your client screamed from pain and**
21 **fell to the ground, he didn't render any type of aid**
22 **and did not call for an ambulance.**

23 Q. All right. I'm going to show you another
24 video. It's marked as Plaintiff's Exhibit 3.3.

25 (Video plays.)

1 BY MR. KAHN:

2 Q. Do you think there's anything wrong with the
3 way that the police officers are behaving in that
4 video?

5 MS. NAIR: Objection as to form. The
6 opinions of Mr. Nixon are his own personal opinions
7 and not the opinions of the city.

8 You may answer if you have an opinion,
9 Investigator Nixon.

10 **A. Yes.**

11 BY MR. KAHN:

12 Q. And what do you believe is wrong with the
13 way that those police officers are --

14 MS. NAIR: Same --

15 BY MR. KAHN:

16 Q. -- behaving?

17 MS. NAIR: Same objection.

18 **A. That they were pulling -- or pushing him**
19 **into the -- into the wagon.**

20 BY MR. KAHN:

21 Q. And what is this -- the vehicle that they
22 were pushing him into? That doesn't appear to be an
23 ambulance. What would that be called?

24 **A. It's a prisoner -- the official name is a**
25 **prisoner transport vehicle, but we call it the wagon**

1 like the -- in the old days they used to call it the
2 paddy wagon. So we call it the wagon. But the
3 official name of it is prisoner transport vehicle.

4 Q. Okay. Now I'm going to show you another
5 video that's been marked as Plaintiff's Exhibit 5.2.

6 (Video plays.)

7 BY MR. KAHN:

8 Q. Mr. Nixon, is there anything -- and I'll
9 represent to you that the voice that you hear -- heard
10 saying that he "damn near shot him" was Officer Abad.
11 Is there anything wrong with Officer Abad saying that?

12 A. No. If he's -- if he's talking about when
13 he was walking down the driveway and your client was
14 driving up the driveway, he'd have to -- if he did
15 shoot, he'd have to articulate a little bit more how
16 he was in fear of his life and that sort of thing.
17 Was it reasonable; was it necessary.

18 What Officer Abad is doing is -- I call that
19 hype talk. You know, talking stuff to get the other
20 officers -- you know, just talking stuff. But it's
21 probably inappropriate to say now that we have these
22 body cameras, and the body cameras are picking up a
23 lot of personal conversations that are inappropriate
24 in nature.

25 Q. Okay. And would you -- you would consider

1 that to be an inappropriate conversation?

2 A. If he -- if he -- like I said, if he did
3 fire the bullets -- because he'd have to articulate
4 that the car was coming at him, and he had no other
5 choice but to get out the way.

6 So what he was telling the other officer was
7 kind of out of text, because the elements were not
8 there for him to discharge his weapon.

9 Q. Okay.

10 A. The --

11 Q. So the --

12 A. -- other officer --

13 Q. Oh, go ahead.

14 A. Go ahead.

15 Q. No. I didn't mean to cut you off, sir.

16 A. No, no. No problem.

17 The other officer doesn't know that your
18 client was -- you know, the vehicle was moving very
19 slow or it might have been stuck. So that's why I
20 said that Officer Abad saying that -- it doesn't match
21 what really happened. So the conversation in itself
22 may be deemed inappropriate regarding these body
23 cameras, because the body cameras are subject to Open
24 Records.

25 Q. Okay. That makes sense.

1 Now, had Officer Abad -- you know, given the
2 same video, that we have the same facts, had
3 Officer Abad fired into the vehicle and shot
4 Mr. Griffin, would that have been a proper shooting?

5 MS. NAIR: Objection. Speculative and
6 outside the context. This goes beyond the scope, and
7 it will require a separate investigation.
8 Investigator Nixon can't speak to a hypothetical
9 situation without more facts.

10 MR. KAHN: Well, if we can answer, he can
11 speak to it. Unless you're instructing him not to
12 answer, which I don't think there's any basis to do
13 that.

14 BY MR. KAHN:

15 Q. Mr. Nixon, if you can answer, you can.

16 **A. If he was -- if he had discharged at the**
17 **time he had his weapon out, no, it would not have been**
18 **a valid use of force.**

19 Q. All right. Now I want to show you a few
20 video clips -- a few more video clips about Donald
21 Vickers' body camera, if you'll give me just a second
22 here.

23 All right. The video I'm about to show is
24 Plaintiff's Exhibit 2.5.

25 (Video plays.)

1 BY MR. KAHN:

2 Q. Mr. Nixon, is there -- is there anything
3 wrong with what Mr. Vickers -- Officer Vickers did in
4 that video?

5 A. Yes. He turned his body camera off.

6 Q. Are police officers allowed to turn their
7 body camera off to save battery life?

8 A. I have heard of officers doing that. Now,
9 the camera he was using at that time was a -- we have
10 new cameras now with a little bit longer battery life.
11 But per our SOP, our SOP, I believe, identifies where
12 we can turn our body camera off to extend the life.

13 Q. Okay. I'm going to show you another video
14 marked as Plaintiff's Exhibit 3.1.

15 (Video plays.)

16 BY MR. KAHN:

17 Q. Is there anything wrong with the way that
18 Officer Vickers is behaving in this video?

19 A. Yeah. It's -- and that's the way the SOP is
20 written, I believe. Is that had something happened
21 from the time he turned his camera off to the time he
22 turned his camera back on, his body camera would not
23 have caught -- captured it.

24 Q. Okay. And we can see from the time stamp up
25 in the -- in the upper right corner -- it says

1 8:12:43 -- or 8:12:50. I guess let me -- from -- at
2 the beginning it says 8:12:42 when the camera comes
3 back on. Sorry.

4 Do you see that up there?

5 **A. Yes, I do. Yes.**

6 Q. And so when he turned the camera off at
7 8:11:01, that would mean that he turned the camera off
8 for less than two minutes. Right?

9 **A. Correct.**

10 Q. And something important to your
11 investigation could have happened in that two minutes.
12 Right?

13 **A. Correct. Yes, sir.**

14 Q. Do you have any idea why Officer Vickers
15 turned his --

16 MS. NAIR: Objection.

17 BY MR. KAHN:

18 Q. -- camera off --

19 MS. NAIR: I apologize. Finish --

20 MR. KAHN: You've got to let me --

21 MS. NAIR: -- your question --

22 MR. KAHN: -- finish --

23 MS. NAIR: -- Mr. Kahn.

24 BY MR. KAHN:

25 Q. Do you have any idea why Officer Vickers

1 turned his camera off for just two minutes?

2 MS. NAIR: Objection --

3 **A. No.**

4 MS. NAIR: -- as to form. That would be
5 speculative. And Investigator Nixon is not called as
6 a fact witness. He's called for his opinions for the
7 City of Atlanta, and we're going way beyond the scope
8 at this point, Mr. Kahn.

9 BY MR. KAHN:

10 Q. Mr. Nixon, if you have an answer, you're
11 free to answer.

12 **A. I don't -- I don't know why he turned it**
13 **off.**

14 Q. Does it seem wrong to you that he turned
15 his --

16 MS. NAIR: Objection --

17 BY MR. KAHN:

18 Q. -- camera off?

19 MS. NAIR: -- as --

20 MR. KAHN: You've got to --

21 MS. NAIR: Objection --

22 MR. KAHN: -- let me finish --

23 MS. NAIR: -- as --

24 MR. KAHN: -- my question before you object.

25 MS. NAIR: I apologize. Go ahead.

1 BY MR. KAHN:

2 Q. Does it seem wrong to you that

3 Officer Vickers turned his camera off?

4 MS. NAIR: Objection as to form. If
5 Investigator Nixon can answer as to the speculative
6 nature of your question --

7 MR. KAHN: You have --

8 MS. NAIR: -- he may.

9 MR. KAHN: -- to stop testifying for the
10 witness. These speaking objections are borderline
11 unethical. If you want to put your objection on the
12 record, you feel free to do that, but you can't
13 testify for this witness.

14 MS. NAIR: Speculation is not unethical,
15 Mr. Kahn, and I'm not drawing speaking objections.
16 It's a speculative question. And if Investigator
17 Nixon can answer, he would be answering as to his
18 personal opinion and not on behalf of the city.

19 And, Investigator Nixon, if you are able to
20 answer Mr. Kahn's question, you may.

21 **A. Can you repeat the question?**

22 BY MR. KAHN:

23 Q. Sure. Does it seem wrong to you that

24 Officer Vickers turned his camera off?

25 **A. Per our SOP, yes.**

1 Q. Does it seem suspicious to you that he
2 turned his camera off?

3 MS. NAIR: Objection. Same objection.

4 A. I don't know if I would use the word
5 "suspicious," but it just -- it's wrong.

6 BY MR. KAHN:

7 Q. Okay. I'm going to show Plaintiff's
8 Exhibit 5.2 again.

9 (Video plays.)

10 BY MR. KAHN:

11 Q. I'm sorry. I'm going to -- I'm going to
12 withdraw that question. I showed you the wrong video
13 clip. I apologize.

14 Approximately, how many instances of police
15 misconduct have you investigated during your time with
16 OPS?

17 A. Oh. I would have to say a lot. Now, when
18 you say "misconduct," are you talking about something
19 that may be criminal?

20 Q. I guess let -- I'll -- I can rephrase the
21 question to narrow it a little bit.

22 Approximately, how many complaints of
23 excessive force have you investigated during your time
24 at OPS?

25 A. Oh, wow. A lot. I've been here since 2012.

1 Q. So would you say too many instances of
2 excessive force to count?

3 A. Yes. Because, like I said, I'm on the
4 officer-involved shooting team, and those are --
5 they're police shootings, but they're also
6 use-of-force instances also. So it's a lot.

7 Q. Okay. In your experience with OPS, have you
8 ever seen another police officer state on the record
9 that another police officer used excessive force?

10 A. No.

11 Q. Have you ever --

12 A. Not --

13 Q. -- heard of -- I'm sorry.

14 A. No. I was just going to say not that I can
15 recall, no.

16 Q. Okay. Have you ever heard of a
17 department-wide practice where officers refuse to bear
18 witness against a fellow officer who is alleged to
19 have violated a citizen's rights?

20 A. A department-wide practice?

21 Q. Yes, sir.

22 A. No.

23 Q. Have you ever heard of a custom or, you
24 know, an informal practice where officers refuse to
25 testify against other officers alleged to have

1 committed another citizen's rights?

2 **A. Yes. I have heard of that, yes.**

3 Q. Is there a name for that practice?

4 **A. Yeah. The -- I can't think of it right now,**
5 **but there is a name -- it does have a name.**

6 Q. Have you ever heard of the phrase "the
7 police code of silence"?

8 **A. The police code of silence? Not often as**
9 **the other. I can't think of the other one. But I've**
10 **heard of that one, but not as much as I've heard the**
11 **other one.**

12 Q. Would the other phrase be "omerta"?

13 **A. I've never heard of that one.**

14 Q. Oh. Well, what does the phrase "code of
15 silence" mean to you in the context of police work?

16 **A. That in the -- I'm going to speak on the**
17 **police forum, because I think every occupation has a**
18 **code of silence, if you want to use that terminology,**
19 **where you don't tell the misdeeds of another officer**
20 **while they were on duty. And, like I said, that can**
21 **go for every occupation.**

22 Q. But that is a thing that exists in the City
23 of Atlanta Police Department?

24 **A. That, I don't know. Because I've never --**
25 **I've never had interaction to talk with someone about**

1 that. When they come here, that they're -- we have a
2 truthfulness policy that you must tell the truth, and
3 if we catch them in a -- in not telling the truth,
4 then they'll need to tell the truth.

5 Q. Okay.

6 A. I have heard what you're speaking of, but I
7 just have not come in contact with it.

8 Q. Okay. Would you agree that police officers
9 who testify against other police officers are
10 ostracized?

11 A. I have not seen it, but I have heard it.
12 Not necessarily with this department, but I have seen
13 it -- I've heard about it with other departments.

14 Q. Have you ever heard of a police officer who
15 testifies against another police officer referred to
16 as a rat or a snitch?

17 MS. NAIR: I'm going to object at this
18 moment just because this line of questioning goes
19 beyond the scope. And Investigator Nixon is
20 testifying as to his personal knowledge, not answering
21 on behalf of the city's opinion.

22 But you may answer if you have personal
23 knowledge.

24 THE WITNESS: I don't have personal
25 knowledge. No, ma'am.

1 BY MR. KAHN:

2 Q. Have you ever heard of APD officers
3 deactivating their body cameras to make sure their
4 stories line up before completing a report?

5 A. I've heard of APD officers deactivating
6 their body cameras, but not for that purpose. When we
7 see that they deactivate their cameras and we inquire,
8 some people have told me that they were on the phone
9 with their spouse; others -- they went to the
10 bathroom, but not for the purpose of completing a
11 report or anything like that.

12 Q. Do you think there's a department-wide
13 problem with excessive force?

14 A. No. We have instances, but it's not -- it's
15 not a epidemic or anything like that. We do have --
16 I'm not sure what the stats are to compare us
17 nationwide, but I don't think we have a real bad
18 problem with it. We have our instances, but I don't
19 believe it's a epidemic.

20 Q. All right. I'm going to share my screen
21 with you. I'm going to show Plaintiff's Exhibit 500.
22 Can you see Plaintiff's Exhibit 500 on your
23 screen?

24 A. Yes.

25 Q. And this is an 11Alive article that was

1 recently published. I want to ask you something about
2 this. Turn to page 4. Do you see -- do you see the
3 highlighted paragraph that says, "According to the
4 file Griggs said Howard gave him, there are currently
5 32 police officers facing criminal prosecution in
6 Fulton County. At least 13 of those officers were
7 involved in seven fatal shooting cases, going back
8 four years"?

9 **A. Yes.**

10 Q. Is that -- I read that correctly?

11 **A. Yes. Now --**

12 Q. Did --

13 **A. -- I've seen that article also. And the**
14 **"Griggs" is Gerald Griggs, and the 32 officers are --**
15 **we don't know if they're all Atlanta police officers,**
16 **because it says Fulton County. So I'm assuming it's**
17 **East Point, Fulton County, all the counties that are**
18 **in -- all the cities that are in Fulton County to add**
19 **up to that 32.**

20 Q. Okay. Would the -- does the fact that there
21 are 32 pending criminal cases against police officers
22 for excessive force indicate a potential systemic
23 problem to you?

24 MS. NAIR: Objection as to form.

25 **A. No --**

1 MS. NAIR: You may --

2 A. -- not in my opinion, only because the
3 30- -- there may be 32 officers, but these -- this is
4 going back however many years.

5 Now, you say it's 32 officers in six months
6 or maybe one year, yes, possibly. But not knowing
7 how -- 13 officers -- okay. 13 of the officers going
8 back four years. So it depends on the span that we're
9 talking about. Because I personally know of some of
10 our files that go back six years that he -- that's
11 sitting on his desk.

12 BY MR. KAHN:

13 Q. Okay. And do you see the next paragraph
14 that says, quote, "'We've got a serious police
15 brutality problem in the city of Atlanta; we've got a
16 serious police brutality problem in the state of
17 Georgia and a serious police brutality problem in the
18 Fulton County,' Griggs said"?

19 A. Yes.

20 Q. Do you agree that there's a serious police
21 brutality problem in the city of Atlanta?

22 A. No. I would like to see where he got his --
23 got -- to make that statement, I would have to see
24 where he got his facts from.

25 Q. How many instances of police brutality would

1 it take for you to consider it a serious problem in
2 the City of Atlanta?

3 A. It depends on several factors. The scope,
4 the -- now, "brutality" is a broad word. Were they
5 beaten up? Were they shot? Were they -- you know,
6 whatever specifically happened to the person? It
7 would -- it would -- each one would have to be taken
8 in on its own merit.

9 And if we start seeing that, okay, we've had
10 one this week, one next week, one next week, okay, we
11 have to see, okay, what's -- what exactly is going on,
12 and is it all coming from one particular zone.

13 That would be another issue we'd look at.
14 If all of them are coming from Zone 1, okay, we've got
15 something going on in Zone 1. But if it's spread out
16 throughout the city, then it's nothing really that we
17 can identify.

18 Q. Okay. Does APD track allegations of
19 excessive force?

20 A. Yes. That would be in our file room. Did
21 you -- with each specific officer?

22 Q. I guess sort of just in general. Like,
23 if -- is there a report that details all allegations
24 of excessive force?

25 A. I'm sure there is, yes.

1 Q. Are you aware of an annual report that the
2 city generates called the use of force report that
3 does such?

4 A. No.

5 Q. Are you -- are you familiar with the Atlanta
6 Citizen Review Board?

7 A. I am.

8 Q. Do you often deal with the ACRB?

9 A. Whenever we have a -- whenever they intake
10 an investigation, there is also a corresponding
11 investigation on this side, and that's usually when I
12 interact with the ACRB.

13 Q. When the ACBR -- excuse me.

14 When the ACRB issues a finding of
15 successive -- of excessive force, what does that
16 generally mean to OPS?

17 A. That the criteria they use to come to that
18 decision -- whatever force the officer used, it
19 violate -- it was able to -- they were able to
20 substantiate a sustained violation of use of force.

21 Q. Is the -- are the standards used by ACRB
22 different than the City of Atlanta standards?

23 A. That, I don't know. I'm not sure what they
24 use as a -- as a -- to determine a sustain or not a
25 sustain or exoneration. I'm sure our SOPs have -- are

1 in there somewhere, but I'm not sure.

2 Q. How does an ACRB finding -- or I guess
3 sustained finding of excessive force impact OPS's
4 investigation?

5 A. I normally don't see their findings. As a
6 matter of fact, since the pandemic hit, I haven't seen
7 any files from the ACRB, I don't think. But in the
8 past -- now, of course, everyone knows that the
9 ACRB -- they are -- now have been given a lot of power
10 different from how they were when this incident
11 happened.

12 So if I'm -- if I'm correct, they could
13 sustain an officer on use of force, but it was still
14 up to the chief to make that recommendation if we
15 disagreed with it.

16 Q. Um-hum. Okay. So then I --

17 A. But that's different now.

18 Q. Sorry. I didn't mean -- I didn't mean to
19 interrupt. If you --

20 A. No, no, no. But it's different now. Now
21 that the ACRB has been given the authority that
22 they've been given now, their findings are going to be
23 taken into consideration along with our findings.

24 Q. Okay. So I guess are there times when the
25 ACRB finds excessive force but then OPS does not find

1 excessive force?

2 **A. I have heard. I have heard some cases, yes.**

3 Q. Okay. Now, I think you verified the city's
4 interrogatory responses. Is that correct?

5 **A. I think I did. Did I? You said "verified"?**

6 Q. Yes, sir.

7 **A. Yes.**

8 Q. Okay. And did you help provide the
9 information to the city for the responses?

10 **A. Yes.**

11 MR. KAHN: Let's take a quick five-minute
12 break. I think I'm pretty close to being done. We'll
13 reconvene at, say, 3:40.

14 THE WITNESS: Okay.

15 MR. KAHN: All right. Thank you.

16 (OFF THE RECORD 3:32-3:40 P.M.)

17 BY MR. KAHN:

18 Q. Mr. Nixon, I want to thank you again for
19 your time. I've just got a few more questions, and
20 then we'll let you get out of here.

21 **A. Yes, sir.**

22 Q. Just some really general background
23 questions. I kind of want to revisit your training
24 and education just very briefly, and then we'll let
25 you go.

1 **A. Yes, sir.**

2 Q. So you said that -- I think you said that
3 you had been an OPS investigator since 2006?

4 **A. I've been an investigator since 2006, but**
5 **here --**

6 Q. Okay.

7 **A. -- at OPS since 2012.**

8 Q. Okay. 2012. And so in the past eight years
9 at OPS, is it fair to say that you have investigated
10 hundreds, if not thousands, of cases of excessive
11 force?

12 **A. I would say -- if I'm -- alone, maybe not --**
13 **I wouldn't say hundreds. But a lot of times other**
14 **investigator -- I might assist with another**
15 **investigator on something, like, go and pull some**
16 **video off a wall or something like that.**

17 So with that being said, maybe hundreds.
18 But myself, being assigned to me by myself, no, it's
19 not that much.

20 Q. Okay. And in terms of training, what sort
21 of training do you have that is relevant to, I guess,
22 analyzing use of force in real-world situations?

23 **A. Yes, sir. Besides the training we did at**
24 **the academy on a yearly basis, I've also -- am a force**
25 **science analyst. And what force science is is where**

1 the application of force is broken down into a
2 science, basically, force science. And when I went to
3 the certification course, they teach you how to look
4 at a situation from every optic available.

5 For instance, if you're chasing someone and
6 that person has a weapon in their hand and they turn
7 around and start shooting at you and you return fire,
8 striking them, the optics are that we shot them in the
9 back. But he has a weapon in his hand, and he was
10 shooting at you.

11 So another example would be -- there's a
12 term called "looming." Looming -- let's say if I'm
13 standing in the middle of a road and a car is coming
14 at me at a high rate of speed -- now, if it's from a
15 distance, the only thing we can see the car doing --
16 the car is becoming larger as we see it coming towards
17 us.

18 It's not as -- it's close that you think in
19 your mind that, hey, I'm going to shoot this car. So
20 by the time you pull out your weapon and fire, it's
21 already -- it may already be passing you, but you made
22 up your mind to shoot while it was still off in the
23 distance.

24 And so when we shoot the side of a car, the
25 optics are we shot it as it was going past us, but the

1 officer actually made up in their mind to shoot when
2 it was coming towards them.

3 Q. Okay. Yeah. That makes sense.

4 And so I'm -- you said the name was -- of
5 the certification was force science analyst?

6 A. Yeah. Well, no. Force science. That's --

7 Q. Force science.

8 A. Yeah. F-o-r-c-e.

9 Q. Okay. And what sort of course did you have
10 to take to get that certification?

11 A. It was a five-day course. And what it
12 does -- it just helps us -- well, helps me to better
13 look at these use-of-force cases very narrowly. But
14 it's -- it doesn't change the decision-making.

15 I don't have -- I don't make decisions on
16 cases. The decision-makers are those that are above
17 me. So I can say something is bad all day long, but
18 it still can change as it goes up the chain of
19 command.

20 Q. Okay. So other than the force science
21 certification and the training at the academy, do you
22 have any other specialized training in the -- in the
23 area of excessive force?

24 A. No, sir. That would be it.

25 Q. Okay. Let's see. And what's your -- what's

1 your educational background, sir?

2 **A. Yes. I have my bachelor's degree in**
3 **criminal justice, and I have my master's degree in**
4 **public administration.**

5 Q. And where are your degrees from?

6 **A. Saint Leo and Walden University. Saint Leo**
7 **would be my bachelor's, and Walden would be my**
8 **master's.**

9 Q. Okay. All right. I have no further
10 questions. Thank you very much for your time.

11 **A. Thank you very much.**

12 Q. We really appreciate it.

13 **A. Thank you. Take care.**

14 **EXAMINATION**

15 BY MS. NAIR:

16 Q. Investigator Nixon, I have a few questions
17 for you before we conclude.

18 **A. Yes, ma'am.**

19 Q. You are not required to review history of an
20 individual in order to competently complete your
21 investigation. Is that accurate?

22 MR. KAHN: Objection.

23 **A. Correct. Yes, ma'am.**

24 MR. KAHN: Leading.

25

1 BY MS. NAIR:

2 Q. Are you required to review an individual's
3 history to competently complete your investigation?

4 A. No, ma'am.

5 Q. Are you tasked with recommending discipline
6 regarding a particular investigation?

7 A. No, ma'am.

8 Q. Have you ever been required or tasked with
9 recommending discipline?

10 A. No, ma'am.

11 Q. If you are called upon to give your personal
12 opinion as to an investigation, is that informal
13 opinion?

14 A. Yes, ma'am, it is.

15 Q. Okay. Now, you were -- you were called here
16 today to testify in regard to the city as to
17 Topics No. 1 and 11 only. Is that correct?

18 MR. KAHN: Objection.

19 A. Yes.

20 MR. KAHN: Leading.

21 BY MS. NAIR:

22 Q. I'm sorry. I didn't understand your answer.

23 A. Oh. Yes.

24 MR. KAHN: Objection. Leading.

25

1 BY MS. NAIR:

2 Q. And the other responses that you gave
3 today -- were those responses based on your personal
4 knowledge only?

5 A. Yes, ma'am.

6 Q. Now, you testified earlier in regards to how
7 you would handle or how you would have handled certain
8 instances for this incident. Is that correct?

9 A. Yes, ma'am.

10 MR. KAHN: Objection to form.

11 BY MS. NAIR:

12 Q. Now, when you testified as to how you would
13 have handled that, was that based on your personal
14 experience as to how you would have handled it?

15 A. Yes, ma'am.

16 Q. Are there multiple ways in which an officer
17 can handle an instance?

18 A. Yes, ma'am.

19 MR. KAHN: Objection. Vague.

20 BY MS. NAIR:

21 Q. Are there multiple ways in which the
22 officers in this case could have handled the incident?

23 A. Yes, ma'am.

24 Q. And --

25 MR. KAHN: Objection. Vague.

1 BY MS. NAIR:

2 Q. -- in those multiple ways that an individual
3 could have handled the incident, does the SOPs provide
4 different options for handling certain types of
5 incidences?

6 A. I believe so.

7 Q. And you were talking about a case or you
8 testified to a case, Graham, regarding the totality of
9 the circumstances. Do you recall responding to that
10 question?

11 A. Yes, ma'am.

12 MR. KAHN: Objection. Leading.

13 BY MS. NAIR:

14 Q. When you answered as to the totality of the
15 circumstances, do you recall what circumstances are
16 taken into consideration --

17 MR. KAHN: Objection.

18 BY MS. NAIR:

19 Q. -- from --

20 MR. KAHN: Vague.

21 BY MS. NAIR:

22 Q. -- Graham?

23 A. The crime -- the crime that was committed.
24 The crime the suspects is alleged to have committed.

25 Q. Do you know if there are any other

1 circumstances that an officer can take into
2 consideration?

3 **A. Yeah. There's two more, and I can't think**
4 **of them right now.**

5 Q. Okay. You testified earlier as to body
6 camera footage being extremely useful in
7 investigations.

8 **A. Yes, ma'am.**

9 MR. KAHN: Objection. Leading.

10 MS. NAIR: Mr. Kahn, I haven't asked the
11 question.

12 MR. KAHN: He answered your "not a
13 question."

14 BY MS. NAIR:

15 Q. Do you recall testifying earlier as to video
16 cameras being helpful in investigations?

17 **A. Yes, ma'am.**

18 Q. Do you need a video camera or a body camera
19 in order for you to make a finding of fact?

20 **A. No. No, ma'am.**

21 Q. So when you said that it is useful, what did
22 you mean by that?

23 **A. That it's -- instead of the totality of the**
24 **circumstances weighing -- if the officer tells us one**
25 **thing and the complainant tells us one thing, if we**

1 have body camera, the body camera can pretty much
2 definitively say, yes, it happened or, no, it
3 happened, as opposed to not having body camera where
4 we don't have any proof. If the officer hit him,
5 we're looking for bruises on the person, any scars or
6 anything like that. And if the person doesn't have
7 anything to substantiate the use of force that the
8 officer may have done, then it's a not sustained, as
9 opposed to having a body camera that shows the officer
10 slapping a person or doing whatever and not leaving a
11 mark. So the body camera would sustain the officer
12 because we have that footage.

13 Q. And you testified earlier when shown a video
14 of Investiga- -- or excuse me -- of Officer Vickers
15 turning off his body camera. Do you recall reviewing
16 that video?

17 A. Yes, ma'am.

18 Q. Do you recall if that footage or the time in
19 which the footage was turned off -- do you recall if
20 that happened before or after Officer Vickers made
21 contact with the plaintiff in this case?

22 A. I believe that was after.

23 Q. And you were -- were you called to
24 investigate the use of force for Investigator -- or
25 for Officer Vickers?

1 **A. Not necessarily the use of force, but the**
2 **whole investigation.**

3 Q. Would that time frame have assisted you in
4 making a determination as to whether or not the use of
5 force was appropriate or not?

6 **A. No. No. The use of force -- Vickers turned**
7 **his body camera on after that time frame.**

8 Q. You testified earlier as to the amount of
9 cases that you handled regarding use of force. Is
10 that correct?

11 **A. Yes, ma'am.**

12 MR. KAHN: Objection. Leading.

13 BY MS. NAIR:

14 Q. And in your testimony you described the
15 different types of use of force. What are -- or is
16 there a wide range of use of force?

17 **A. That a officer can do?**

18 Q. Yes, sir.

19 **A. Yes. There's -- if we use our utility belt,**
20 **we have pepper spray, ASP baton, the weapon, Taser,**
21 **physical, you know, hands-on. Those are just off the**
22 **top of my head.**

23 Q. Is drawing -- or excuse me.

24 Is discharging your weapon also use of
25 force?

1 **A. Yes, ma'am.**

2 Q. Is discharging your weapon but not making
3 contact with someone use of force?

4 **A. The taking out the holster?**

5 Q. No. Discharging.

6 **A. Oh. Discharging? Yes, ma'am.**

7 Q. But not making contact with someone else --
8 is that considered use of force as well?

9 **A. I would say so just in a -- in a technical**
10 **way, even though we didn't hit the person. If the**
11 **person had any other type of situation going on, if --**
12 **it can be. I would have to actually look that up, but**
13 **I believe so. But I may be wrong.**

14 Q. And is physically grabbing someone
15 considered use of force as well?

16 **A. Yes, ma'am.**

17 Q. I just have one or two more questions.

18 **A. No problem.**

19 Q. You have a -- you draw -- you drew up a
20 investigative report for this case. Is that --

21 **A. Yes, ma'am. Yes, ma'am.**

22 Q. -- accurate?

23 MR. KAHN: Objection. Leading.

24 BY MS. NAIR:

25 Q. When you drew up the investigative report,

1 did you do so for both Invest- -- for Officer Vickers
2 and Officer Abad?

3 **A. Yes.**

4 Q. Were those separate investigative reports?

5 **A. No. It's all in that one file.**

6 Q. When you did your investigation, you
7 inter- -- did you interview both Vickers and Abad?

8 **A. Correct. Yes, ma'am.**

9 Q. And are you required to put in your report,
10 your investigative report, whatever they tell you?

11 **A. A summarization and usually with the report**
12 **will also be -- we audio-record the interviews. So**
13 **whatever we don't put on paper, the file also will**
14 **have the entire audio interview.**

15 Q. Okay. So you are required to put whatever
16 they tell you in the investigation?

17 **A. A summary, yes, ma'am. Um-hum.**

18 MR. KAHN: Objection. Leading.

19 BY MS. NAIR:

20 Q. Now, when you include what they put in the
21 investigative report, does that automatically mean
22 that is your finding of fact?

23 **A. No. The finding of fact is -- say that**
24 **again.**

25 Q. Does what the individual you're

1 investigating tell you automatically mean that you
2 make it a finding of fact?

3 **A. No, ma'am. It's only what I can --**

4 **Q. I'm sorry.**

5 **A. It's only --**

6 MS. NAIR: Bless you, Mr. Kahn.

7 **A. It's only what I can prove. The finding of**
8 **fact is what I can prove. If they were at work that**
9 **day -- if I put in both Officer Vickers and Abad were**
10 **at work on April the 5th, I can prove that.**

11 BY MS. NAIR:

12 **Q. Okay. I don't believe I have any other**
13 **questions for you. Thank you, Investigator Nixon. I**
14 **appreciate your time.**

15 **A. Thank you, ma'am.**

16 MR. KAHN: No further questions from us.

17 THE WITNESS: Thank you, sir.

18 MR. KAHN: Thank you.

19 (DEPOSITION CONCLUDED AT 3:57 P.M.)

20 (Pursuant to Rule 30(e) of the Federal Rules
21 of Civil Procedure and/or O.C.G.A. 9-11-30(e),
22 signature of the witness has been waived.)

23

24

25

1 The following reporter and firm disclosures
2 were presented at this proceeding for review by
3 counsel:

4 REPORTER DISCLOSURES

5 The following representations and
6 disclosures are made in compliance with Georgia Law,
7 more specifically:

8 Article 10(B) of the Rules and Regulations
9 of the Board of Court Reporting (disclosure forms)

10 O.C.G.A. 9-11-28(c) (disqualification of
11 reporter for financial interest)

12 O.C.G.A. 15-14-37(a) and (b) (prohibitions
13 against contracts except on a case-by-case basis).

- 14 - I am a certified reporter in the state of Georgia.
- 15 - I am a subcontractor for Pope Reporting & Video.
- 16 - I have been assigned to make a complete and
17 accurate record of these proceedings.
- 18 - I have no relationship of interest in the matter
19 on which I am about to report which would
20 disqualify me from making a verbatim record or
21 maintaining my obligation of impartiality in
22 compliance with the Code of Professional Ethics.
- 23 - I have no direct contract with any party in this
24 action and my compensation is determined solely by
25 the terms of my subcontractor agreement.

15 FIRM DISCLOSURES

- 16 - Pope Reporting & Video was contacted to provide
17 reporting services by the noticing or taking
18 attorney in this matter.
- 19 - There is no agreement in place that is prohibited
20 by O.C.G.A. 15-14-37(a) and (b). Any
21 case-specific discounts are automatically applied
22 to all parties at such time as any party receives
23 a discount.
- 24 - Transcripts: The transcript of this proceeding as
25 produced will be a true, correct, and complete
record of the colloquies, questions, and answers
as submitted by the certified court reporter.
- Exhibits: No changes will be made to the exhibits
as submitted by the reporter, attorneys, or
witnesses.
- Password-Protected Access: Transcripts and
exhibits relating to this proceeding will be
uploaded to a password-protected repository, to
which all ordering parties will have access.

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C E R T I F I C A T E

STATE OF GEORGIA:

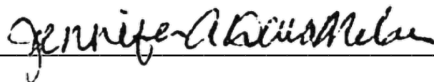
COUNTY OF COBB:

I hereby certify that the total transcript, pages 1 through 81, represent a true, complete, and correct transcript of the proceedings taken down by me in the case aforesaid (and exhibits admitted, if applicable); that the foregoing transcript is a true and correct record of the evidence given to the best of my ability.

The above certification is expressly withdrawn upon the disassembly or photocopying of the foregoing transcript, unless said disassembly or photocopying is done under the auspices of myself and the signature and original seal is attached thereto.

I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of the actions.

This 28th day of September, 2020.



Jennifer Davis-McLain, RMR, CRR, CRC, CCR-2496
Georgia Certified Court Reporter

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